

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

IN RE: PASSENGER VEHICLE	)	Case No. 5:24-md-3107
REPLACEMENT TIRES ANTITRUST	)	
LITIGATION	)	MDL No. 3107
	)	
This Document Applies to:	)	CHIEF JUDGE SARA LIOI
	)	
<u>ALL CASES</u>	)	

**AUTOMOBILE DEALERSHIP AND OTHER RESELLER PLAINTIFFS'**

**SUPPLEMENT TO INITIAL JOINT STATUS REPORT**

Pursuant to Section VII.C of this Court’s June 10, 2024 Case Management Order No. 1 (“Order No. 1”), the undersigned counsel for Automobile Dealership and Other Reseller Plaintiffs (ADPs) submit this supplement to the Initial Joint Status Report.

**ADP Proposed Leadership Structure**

At the time of the filing of the Initial Status Report, ADPs informed the Court that they had recently become aware of a new case filed by an apparent reseller plaintiff—*Worldwide Auto Repair Ltd. v. Continental Aktiengesellschaft, et al.*, Case No. 5:24-rt-55030-SL (N.D. Ohio, June 21, 2024). Doc 70, Initial Joint Status Report, Appx. D, fn. 1. As of the time of the submission, ADPs Proposed Co-Lead Counsel had been unable to confer with counsel in *Worldwide Auto Repair Ltd.*

ADPs’ Proposed Co-Lead Counsel have since conferred with counsel in *Worldwide Auto Repair Ltd.* and are submitting this Supplement to Joint Status Report to amend ADPs’ Proposed Leadership Structure (Appendix D to Initial Joint Status Report). The amendment, concerning which all ADP counsel agree, proposes that the Court name an additional Co-Lead Counsel, Robin F. Zwerling, for the ADP Class. ADP Proposed Lead Counsel have attached to this Supplement to the Joint Status Report a Revised Appendix D providing additional detail regarding their proposed leadership structure and a link to biographical material regarding Ms. Zwerling.

ADPs’ Proposed Co-Lead Counsel further confirm through this Supplement that Ms. Zwerling will attend the July 2, 2024 Status Conference in person.

Dated June 28, 2024:

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**REVISED APPENDIX D**

**Automobile Dealership and Other Reseller Plaintiffs'**

**Proposed Leadership Structure (ADPs):**

Automobile Dealership and Other Reseller Plaintiffs (ADPs)<sup>1</sup> propose the following five individuals for appointment as Co-Lead Counsel for ADPs, subject to this Court's approval:

Warren Tavares Burns <b>Burns Charest LLP</b> 900 Jackson Street Suite 500 Dallas, TX 75214	Daniel C. Hedlund <b>Gustafson Gluek PLLC</b> Canadian Pacific Plaza 120 So. Sixth Street, Suite 2600 Minneapolis, MN 55402	Michael J. Flannery <b>Cuneo, Gilbert &amp; LaDuca, LLP</b> Two City Place Drive, Second Floor St. Louis, MO 63141	Steven N. Williams <b>Steven N. Williams Law, P.C.</b> 201 Spear Street, Suite 1100 San Francisco, CA 94105
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Robin F. Zwerling  
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Proposed ADP Co-Lead Counsel have been appointed previously as lead counsel in antitrust class actions through the country.<sup>2</sup> Moreover, the proposed ADP Co-Lead Counsel bring

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<sup>1</sup> On June 23, 2024, Defendants informed Proposed ADP Co-Lead Counsel that a new case had been filed in this litigation on behalf of what appears to be an automotive repair shop. *See Worldwide Auto Repair Ltd. v. Continental Aktiengesellschaft, et al.*, Case No. 5:24-rt-55030-SL (N.D. Ohio, June 21, 2024). The plaintiff in *Worldwide Auto Repair Ltd.* did not participate in negotiations regarding this Joint Status Report. Upon learning of the existence of *Worldwide Auto Repair Ltd.*, Proposed ADP Co-Lead Counsel immediately reached out to plaintiffs' counsel in the case, but as yet have not been unsuccessful in reaching them. Proposed ADP Co-Lead Counsel will continue to make efforts to reach *Worldwide Auto Repair Ltd.* counsel to determine whether they agree to the proposed leadership structure.

<sup>2</sup> Additional details regarding the experience of Proposed APP Co-Lead Counsel are available at: [Warren Tavares Burns – Burns Charest](#); [Daniel C. Hedlund – Gustafson Gluek](#); [Michael J. Flannery – Cuneo Gilbert & LaDuca](#); [Steven N. Williams – Steven N. Williams Law](#); and [Robin Zwerling – Zwerling, Schachter & Zwerling, LLP](#). Proposed APP Co-Lead Counsel are prepared to provide additional materials about their qualifications at the Court's request.

a depth of experience in cases involving automobiles and related parts that is unparalleled in this litigation. Mr. Flannery's firm served as co-lead counsel for Automobile Dealers in *In re Auto. Parts Antitrust Litig.*, No. 2:12-MD-02311 (E.D. Mich.). Messrs. Burns and Williams served as co-lead counsel for End-Payor Plaintiffs in the same case, along with Mr. Hedlund who served on the executive committee for the same class. The same individuals or their firms also have served as lead counsel or executive committee members in cases involving imported German automobiles, vehicle carriers, advertising related to automobile dealerships, and automobile dealership management systems. Ms. Zwerling brings significant additional experience, having served as lead counsel in numerous securities class actions and other complex cases.

Proposed ADP Co-Lead Counsel have conducted a thorough investigation of defendants' alleged conduct in this case and have consulted experienced economic experts in developing their clients' claims. Since filing, Proposed ADP Co-Lead Counsel have worked diligently to advance plaintiffs' collective interests in this case. Proposed ADP Co-Lead Counsel have been deeply engaged in negotiations pertaining to the joint status report and overall case schedule. Proposed ADP Co-Lead Counsel are committed to working closely with all plaintiff groups to ensure the efficient coordination of this litigation.

Proposed ADP Co-Lead Counsel shall be responsible for efficiently managing this litigation and making all strategic, substantive, and procedural decisions on behalf of their respective classes in this action and any additional related actions that are consolidated with this action (collectively with actions filed on behalf of other putative classes, "the Action"). These responsibilities include, but are not limited to: (a) determining and presenting to the Court and opposing parties the positions of plaintiffs on all matters arising during pretrial, trial, and post-trial proceedings in the Action; (b) coordinating the initiation and conduct of discovery on behalf of

plaintiffs consistent with the requirements of Fed. R. Civ. P. 26(b)(1), 26(b)(2) and 26(g), including the preparation of joint interrogatories and requests for production of documents, employment and consultation with experts, and the examination of witnesses in depositions; (c) conducting settlement negotiations on behalf of plaintiffs and entering into settlements to the extent expressly authorized and subject to Court approval; (d) delegating specific tasks to other counsel or committees of counsel in an efficient and non-duplicative manner; (e) entering into stipulations with opposing counsel as necessary for the conduct of the litigation; (f) preparing and distributing periodic status reports to plaintiffs; (g) maintaining adequate time and disbursement records; (h) monitoring the activities of plaintiffs' counsel to ensure that schedules are met and unnecessary expenditures of time and funds are avoided; (i) coordinating trial team selection, management, and presentation; and (j) performing such other duties as may be incidental to proper coordination of plaintiffs' pretrial activities or authorized by further order of the Court. *See* MCL 4th § 40.22.

The complexity of this litigation and the global nature of the alleged conspiracy support the proposed leadership structure. Leading commentators and the Manual for Complex Litigation advise: "court[s] should be cognizant of the possibility that the class could benefit from the combined resources and expertise of a number of class counsel, especially in a complex case where the defendants are represented by a number of large and highly qualified law firms." Third Circuit Task Force Report on Selection of Class Counsel, 208 F.R.D. 340, 417 (2002) (footnote omitted); *see also* MCL 4th § 10.221 (noting benefits to having multiple lead counsel and committees in large class action cases). Courts, including in this district, regularly approve similar structures in cases of this magnitude. *See, e.g., In re: E. Palestine Train Derailment*, No. 4:23-cv-00242 (N.D. Oh. Apr. 5, 2023), ECF No. 28 at 14-16 (appointing four interim co-lead class counsel, executive committee, and liaison counsel for at least 20 consolidated actions alleging gross negligence by

railroad); *In re Suboxone (Buprenorphine/Naloxone) Film Prods Liab. Litig.*, No. 1:24-md-03092 (N.D. Oh. March 8, 2024), ECF No. 35 (appointing four interim co-lead class counsel, executive committee, and steering committee for at least 15 consolidated civil actions); *In re: Realpage, Inc., Rental Software Antitrust Litig. (No. II)*, No. 3:23-md-3071 (M.D. Tenn. Jun. 13, 2023), ECF No. 10 (appointing three interim co-lead class counsel, executive committee, and liaison counsel in consolidated antitrust action among 20 civil actions); *see also In re: Crop Prot. Loyalty Program Antitrust Litig.*, No. 1:23-md-3062 (M.D.N.C. Jun. 4, 2023), ECF No. 60 (appointing four interim co-lead class counsel and liaison counsel in consolidated antitrust action among 29 civil actions); *In re Eur. Gov't Bonds*, No. 1:19-cv-02601 (S.D.N.Y. May 1, 2019), ECF Nos. 35 & 200 (appointing four co-lead interim class counsel for two consolidated antitrust actions);

Each of the attorneys seeking a leadership appointment in their respective classes has a demonstrated track record of experience in complex litigation and antitrust matters. This proposed structure, and its composition, will allow plaintiffs to efficiently manage this litigation with an overall goal of seeking a swift resolution for the benefit of all plaintiffs.